

1 BILL NO. R-89-06- 22

2 DECLARATORY RESOLUTION NO. R- 42-89

3 A DECLARATORY RESOLUTION
4 designating an "Economic
5 Revitalization Area" under
6 I.C. 6-1.1-12.1 for property
7 commonly known as 400 East
8 Main Street, Fort Wayne,
9 Indiana (East Main Street
10 Associates).

11 WHEREAS, Petitioner has duly filed its petition dated
12 June 22, 1989, to have the following described property
13 designated and declared an "Economic Revitalization Area"
14 under Division 6, Article II, Chapter 2 of the Municipal Code
15 of the City of Fort Wayne, Indiana, of 1974, as amended, and
16 I.C. 6-1.1-12.1, to wit:

17 Lot number 40, together with the East Half, West
18 of and adjacent thereto, of the 20 foot-wide
19 alley vacated under Deed Record 76, page 367 in
20 the Office of the Recorder of Allen County,
21 Indiana, all being in County Addition to Fort
22 Wayne, now in the City of Fort Wayne, Indiana,
23 together with Lots numbered 1, 2 and 3 in
24 Taber's Addition to the City of Fort Wayne,
25 Indiana, excepting therefrom that part of said
26 Lot number 3 described as follows, to wit:
27 Beginning at the Northeast corner of said Lot
28 number 3; thence Westerly, on and along the
29 Northerly line of said Lot number 3, a distance
30 of 59.73 feet; thence Southeasterly, on and
31 along the arc of a regular curve to the right
32 having a radius of 60.0 feet and said curve
being tangent to the Northerly and Easterly
lines of said Lot number 3, an arc distance of
93.98 feet, being subtended by a long chord
having a length of 84.66 feet which forms an
interior angle of 44 degrees 52 minutes 12
seconds with the North line of said Lot number 3
to a point on the Easterly line of said Lot
number 3; thence Northerly by an interior angle
of 44 degrees 52 minutes 12 seconds from the
aforesaid long chord, on and along the Easterly
line of said Lot number 3, a distance of 59.73
feet to the point of beginning, containing 0.018
acres of land.

33 said property more commonly known as 400 East Main Street,
34 Fort Wayne, Indiana.

35 WHEREAS, said project will create 14 additional
36 permanent jobs for a total additional annual payroll of
37 \$340,000.00, with the average new annual job salary being
38 \$24,286.00; and

39 WHEREAS, the total estimated project cost is
40 \$1,700,000.00; and

1 WHEREAS, it appears that said petition should be
2 processed to final determination in accordance with the
3 provisions of said Division 6.

4 NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF
5 THE CITY OF FORT WAYNE, INDIANA:

6 SECTION 1. That, subject to the requirements of
7 Section 6, below, the property hereinabove described is hereby
8 designated and declared an "Economic Revitalization Area"
9 under I.C. 6-1.1-12.1. Said designation shall begin upon the
10 effective date of the Confirming Resolution referred to in
11 Section 6 of this Resolution and shall continue for one (1)
12 year thereafter. Said designation shall terminate at the end
13 of that one-year period.

14 SECTION 2. That upon adoption of the Resolution:

15 (a) Said Resolution shall be filed with the Allen
16 County Assessor;

17 (b) Said Resolution shall be referred to the Committee
18 on Finance and shall also be referred to the
19 Department of Economic Development Requesting a
20 recommendation from said department concerning the
21 advisability of designating the above designated
22 area an "Economic Revitalization Area";

23 (c) Common Council shall publish notice in accordance
24 with I.C. 6-1.1-12.1-2.5 and I.C. 5-3-1 of the
25 adoption and substance of this Resolution and
26 setting this designation as an "Economic
27 Revitalization Area" for public hearing;

28 (d) If this Resolution involves an area that has
29 already been designated an allocation area under
30 I.C. 36-7-14-39, then the Resolution shall be
31 referred to the Fort Wayne Redevelopment
32 Commission and said designation as an "Economic
Revitalization Area" shall not be finally approved
unless said Commission adopts a resolution
approving the petition.

1 SECTION 3. That, said designation of the hereinabove
2 described property as an "Economic Revitalization Area" shall
3 apply to a deduction of the assessed value of real estate.

4 SECTION 4. That the estimate of the number of
5 individuals that will be employed or whose employment will be
6 retained and the estimate of the annual salaries of those
7 individuals and the estimate of the value of the redevelopment
8 or rehabilitation, all contained in Petitioner's Statement of
9 Benefits, are reasonable and are benefits that can be
10 reasonably expected to result from the proposed described
11 redevelopment or rehabilitation.

12 SECTION 5. The current year approximate tax rates for
13 taxing units within the City would be:

14 (a) If the proposed development does not occur, the
15 approximate current year tax rates for this site
16 would be \$11.4948/\$100

17 (b) If the proposed development does occur and no
18 deduction is granted, the approximate current year
19 tax rate for the site would be \$11.4948/\$100 (the
20 change would be negligible).

21 (c) If the proposed development occurs, and a
22 deduction percentage of fifty percent (50%) is
23 assumed, the approximate current year tax rate for
24 the site would be \$11.4948/\$100 (the change would
25 be negligible).

26 SECTION 6. That this Resolution shall be subject to
27 being confirmed, modified and confirmed or rescinded after
28 public hearing and receipt by Common Council of the above
29 described recommendations and resolution, if applicable.

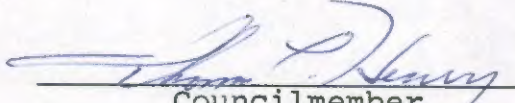
30 SECTION 7. Pursuant to I.C. 6-1.1-12.1, it is hereby
31 determined that the deduction from the assessed value of the
32 real property shall be for a period of ten (10) years.

 SECTION 8. The benefits described in the Petitioner's
statement of benefits can be reasonably expected to result

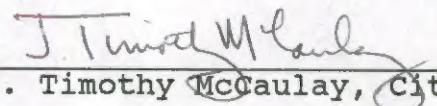
PAGE 4

from the project and are sufficient to justify the applicable deductions.

SECTION 9. That this Resolution shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.


Councilmember

APPROVED AS TO FORM
AND LEGALITY


J. Timothy McCaulay, City Attorney

FOUR STAR BOND
SOUTHWORTH CO. USA
100% COTTON FIBER

Read the first time in full and on motion by _____, seconded by _____, and duly adopted, read the _____ title and referred to the Committee on _____ City Plan Commission for recommendation, and Public Hearing to be held after due legal notice, at the Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____, day of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATED: _____

SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Henry, seconded by Talarico, and duly adopted, placed on its passage. PASSED ~~lost~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	7		1	
BRADBURY	✓			
BURNS	✓			
GIAQUINTA			✓	
HENRY	✓			
LONG	✓			
REDD	✓			
SCHMIDT	✓			
STIER				
TALARICO	✓			

DATED: 6-27-89

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)

(SPECIAL) (ZONING MAP) ORDINANCE RESOLUTION NO. R-42-89
on the 27th day of June, 1989,

Sandra E. Kennedy ATTEST
SANDRA E. KENNEDY, CITY CLERK

SEAL
Charles S. Redd
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 28th day of June, 1989, at the hour of 11:00 o'clock 7 M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 29th day of June, 1989, at the hour of 12:00 o'clock P M., E.S.T.

PAUL HELMKE
PAUL HELMKE, MAYOR

SUMMARY SHEET & ECONOMIC DEVELOPMENT RECOMMENDATION
FOR
"ECONOMIC REVITALIZATION AREA"
IN
CITY OF FORT WAYNE, INDIANA

Name of Applicant: East Main Street Associates

Site Location: 400 East Main Street

Fort Wayne IN

Councilmanic District: 1 Existing Zoning: M-1

Nature of Business: Law

Project is located in the following:

	<u>Yes</u>	<u>No</u>
Designated Downtown Area	<u>X</u>	
Urban Enterprise Zone		<u>X</u>
Redevelopment Area	<u>X</u>	
Platted Industrial Park		<u>X</u>
Flood Plain		<u>X</u>

Description of Project:

The construction of a three story first class office building ranging from 24-28,000 sq.ft.

Type of Tax Abatement: Real Property X Manufacturing Equipment

Estimated Project Cost: \$ 1,700,000.00 Permanent Jobs Created: 14

STAFF RECOMMENDATION:

As stated per the established policy of the Division of Economic Development, the following recommendations are hereby made:

- 1.) Designation as an "Economic Revitalization Area" should be granted. X Yes No
- 2.) Designation should be limited to a term of 1 year(s).
- 3.) The period of deduction should be limited to 10 year(s).

Comments:

Project is taking place in a targeted development area - downtown Fort Wayne.

Staff *Robert J. Johnson*
Date 6-22-89

Director *Paul D. Beckman*
Date 6/22/89

FOR USE OF DESIGNATING BODY

IMPACT ON THE CURRENT YEAR TAX RATE FOR THE TAXING DISTRICT INDICATED ABOVE

Tax Rates Determined Using The Following Assumptions

Total Tax Rates

1. Current total tax rate.	\$ 11.4948
2. Approximate tax rate if project occurs and no deduction is granted.	\$ 11.4948
3. Approximate tax rate if project occurs and a deduction is assumed.	\$ 11.4948

Assume an 80% deduction on new machinery installed and / or a 50% deduction assumed on real estate improvements.

We have reviewed our prior actions relating to the designation of this economic revitalization area and find that the applicant meets the general standards adopted in the resolution previously approved by this body. Said resolution, passed under IC 8-1.1-12.1-2.5, provides for the following limitations as authorized under IC 8-1.1-12.1-2:

- A) The designated area has been limited to a period of time not to exceed _____ calendar years. *(See Below)
- B) The type of deduction that is allowed in the designated area is limited to:
- 1) Redevelopment or rehabilitation of real estate improvements. ☒ Yes ☐ No
 - 2) Installation of new manufacturing equipment ☐ Yes ☒ No
 - 3) No limitations on type of deduction (check if no limitations) ☐ Yes ☒ No
- C) The amount of deduction applicable for new manufacturing equipment installed and first claimed eligible for deduction after July 1, 1987, is limited to \$ _____ cost with an \$ _____ assessed value.

Also we have reviewed the information contained in the statement of benefits including the impact on the tax rate incorporated herein, and have determined that the benefits described above can be reasonably expected to result from the project and are sufficient to justify the applicable deduction.

Approved; Signature of Authorized Member and Title

Date of Signature

Attested By:

Designated Body

* If a commission council town board or county council limits the time period during which an area is an economic revitalization area, it does not limit the length of time a taxpayer is entitled to receive a deduction to a number of years designated under I.C. 8-1.1-12.1-4 or 4.5 Namely:

NEW MANUFACTURING EQUIPMENT

REDEVELOPMENT OR REHABILITATION OF REAL PROPERTY IMPROVEMENT

For Deductions Allowed Over A Period Of:

Year of Deduction	Percentage	Year of Deduction	Three (3) Year Percentage	Six (6) Year Percentage	Ten (10) Year Percentage
1st	100%	1st	100%	100%	100%
2nd	95%	2nd	88%	85%	95%
3rd	80%	3rd	33%	88%	80%
4th	85%	4th		50%	85%
5th	50%	5th		34%	50%
6th and thereafter	0%	6th		17%	40%
		7th			30%
		8th			20%
		9th			10%
		10th			5%



Form SB-1 is prescribed by the State Board of Tax Commissioners (1987)

Confidential Statement: The records in this series are CONFIDENTIAL according to Indiana Code 6-1.1-35-9.

INSTRUCTIONS: (I.C. 6-1.1-12.1) THIS PAGE TO BE COMPLETED BY APPLICANT

1. This statement must be submitted to the body designating the economic revitalization area BEFORE a person acquires new manufacturing equipment or begins the redevelopment or rehabilitation of real property for which the person wishes to claim a deduction. Effective July 1, 1987.
2. If a person is requesting the designation of an economic revitalization area, this form must be submitted at the same time the request is submitted.
3. Approval of the designating body (City Council, Town Board, County Council, etc.) must be obtained before a deduction may be approved.
4. To obtain a deduction Form 322 ERA, Real Estate Improvements and /or Form 322 ERA / PP, New Machinery, must be filed with the county auditor. With respect to real property, Form 322 ERA must be filed by the later of (1) May 10 or (2) thirty (30) days after notice of increase in real property assessment is received from the township assessor. Form 322 ERA / PP must be filed on or before March 1 and May 15 of the assessment year in which new manufacturing equipment is installed, unless a filing extension has been obtained. A person who obtains a filing extension must file the form between March 1 and June 14 of that year.

RECEIVED

JUN 22 1989

ECONOMIC DEVELOPMENT

Name of Designating Body City Council of Fort Wayne	County Allen
Name of Taxpayer East Main Street Associates	
Address of Taxpayer (Street, city, county) 2000 Fort Wayne Bank Building, Fort Wayne, Indiana	ZIP Code 46802

SECTION I LOCATION, COST AND DESCRIPTION OF PROPOSED PROJECT

Location of property if different from above 400 East Main Street, Fort Wayne, Indiana 46802	Taxing District 91
Cost and description of real property improvements and /or new manufacturing equipment to be acquired: The improvements proposed are a three story, first class office building ranging from 24,000 - 28,000 square feet. Estimated costs range from \$1,600,000.00 to \$1,800,000.00.	
(Attach additional sheets if needed)	Estimated Starting Date 8-1-89
	Estimate Completion Date 8-30-90

SECTION II ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT

Current Number	Salaries	Number Retained	Salaries	Number Additional	Salaries
34	\$1,000,000.00+	34	\$1,000,000.00+	14	\$340,000.00

SECTION III ESTIMATE TOTAL COST AND VALUE OF PROPOSED PROJECT

	REAL ESTATE IMPROVEMENTS		MACHINERY	
	COST	ASSESSED VALUE	COST	ASSESSED VALUE
Current Values		\$29,900.00		
Plus estimated values of proposed project	\$1,700,000.00			
Less: Values of any property being replaced	-0-			
Net estimated values upon completion of project	\$1,700,000.00			

SECTION IV OTHER INFORMATION REQUIRED BY THE DESIGNATING BODY

The tenants, Snouffer, Haller & Colvin and Jeffers, Hoffman and Niewyk, find that moving from their current space is necessary in order to expand. Both of the tenants have outgrown their current space and are unable to expand or add additional staff or personell until the move. In addition, it is believed that the identity provided by this project will increase additional avenues and methods of growth.

I hereby certify that the representations on this statement are true.	Signature of Authorized Representative <i>Steph C. Lee</i>
Title Partner	Date of Signature June 22, 1989
	Telephone Number (219) 424-2000

RECEIVED

JUN 22 1989

ECONOMIC
DEVELOPMENT

AN APPLICATION TO
THE CITY OF FORT WAYNE, INDIANA
FOR DESIGNATION OF PROPERTY AS AN
"ECONOMIC REVITALIZATION AREA"
AND STATEMENT OF BENEFITS

APPLICATION FOR THE FOLLOWING TYPE OF PROPERTY:

XX Real Estate Improvements
 Personal Property (New Manufacturing Equipment)
 Both Real Estate Improvements & Personal Property

A. GENERAL INFORMATION

Applicant's Name: East Main Street Associates

Address of Applicant's Principal Place of Business:

2000 Fort Wayne Bank Building

Fort Wayne, Indiana 46802

Phone Number of Applicant: (219) 424-2000

Street Address of Property Seeking Designation:

400 East Main Street

Fort Wayne, Indiana 46802

S.I.C. Code of Substantial User of Property: _____

B. PROJECT SUMMARY INFORMATION:

	<u>YES</u>	<u>NO</u>
Is the project site solely within the city limits of the City of Fort Wayne	<u>X</u>	<u> </u>
Is the project site within the flood plain?	<u> </u>	<u>X</u>
Is the project site within the rivergreenway area?	<u> </u>	<u>X</u>
Is the project site within a Redevelopment Area?	<u>X</u>	<u> </u>
Is the project site within a platted industrial park?	<u> </u>	<u>X</u>
Is the project site within the designated downtown area?	<u>X</u>	<u> </u>
Is the project site within the Urban Enterprise Zone?	<u> </u>	<u>X</u>

Is any adverse environmental impact anticipated by reason of operation of the proposed project? _____ X

Three story, first class office space ranging from 24,000 - 28,000 square feet.

Cost of Improvements: \$ 1,700,000.00

Development Time Frame:

When will physical aspects of improvements begin? August 1, 1989

When is completion expected? August 30, 1990

E. PERSONAL PROPERTY ABATEMENT:

Complete this section of the application only if requesting a deduction from assessed value for installation of new manufacturing equipment.

Current Assessed Value of Personal Property: _____

What was amount of Personal Property Taxes owed during the immediate past year? _____ for year 19____.

Give a brief description of new manufacturing equipment to be installed at the project site.

Cost of New Manufacturing Equipment? \$ _____

Development Time Frame:

When will installation begin of new manufacturing equipment? _____

When is installation expected to be completed? _____

F. PUBLIC BENEFIT INFORMATION:

How many permanent jobs currently are employed by the applicant in Allen County? Proposed tenants currently employ 17 staff members and 17 attorneys.

How many permanent jobs will be created as a result of this project?
8 staff members and 6 attorneys.

Anticipated time frame for reaching employment level stated above?
Three to five years.

Current annual payroll: \$1,000,000.00 plus

New additional annual payroll: \$340,000.00

What is the nature of the new jobs to be created?

Professional and professional staff.

Undesirability of Normal Development:

What evidence can be provided that the property on which the project is located "has become undesirable for, or impossible of, normal development and occupancy because of lack of age, development, cessation of growth, deterioration of improvements or character of occupancy, obsolescence, substandard buildings or other factors which have impaired values or prevent a normal development of property or use of property"?

The corner has been undeveloped in excess of twenty years. The block

currently has numerous vacant buildings and at least one which is condemned.

These conditions have resulted in the area being declared an Urban Redevelopment Area.

In what Township is project site located? Wayne

In what Taxing District is project site located? 91

G. CONTACT PERSON:

Name & address of contact person for further information if required:

Stephen E. Lewis, Esq.

2000 Fort Wayne Bank Building

Fort Wayne, Indiana 46802

Phone number of contact person (219) 424-2000

I hereby certify that the information and representation on this application and attached exhibits are true and complete. Further, it is hereby certified that no building permit has been issued for construction of improvements, nor has any manufacturing equipment been purchased, either of which is included and/or described herein, as of the date of filing of this application.

Stephen E. Lewis
Signature of Applicant

6/22/89
Date

EXHIBITS:

The following exhibits must be attached to the application for it to be considered complete:

1. Legal Description of Property
2. Check for application fee of \$50.00 to be made payable to City of Fort Wayne.
3. Owners Certificate (if applicant is not the owner or property to be designated).

DESCRIPTION

Lot number 40, together with the East Half, West of and adjacent thereto, of the 10 foot-wide alley vacated under Deed Record 76, page 367 in the Office of the Recorder of Allen County, Indiana, all being in County Addition to Fort Wayne, now in the City of Fort Wayne, Indiana, together with Lots numbered 1, 2 and 3 in Taber's Addition to the City of Fort Wayne, Indiana, excepting therefrom that part of said Lot number 3 described as follows, to wit:

Beginning at the Northeast corner of said Lot number 3; thence Westerly, on and along the Northerly line of said Lot number 3, a distance of 59.73 feet; thence Southeasterly, on and along the arc of a regular curve to the right having a radius of 60.0 feet and said curve being tangent to the Northerly and Easterly lines of said Lot number 3, an arc distance of 93.98 feet, being subtended by a long chord having a length of 84.66 feet which forms an interior angle of 44 degrees 52 minutes 12 seconds with the North line of said Lot number 3 to a point on the Easterly line of said Lot number 3; thence Northerly by an interior angle of 44 degrees 52 minutes 12 seconds from the aforesaid long chord, on and along the Easterly line of said Lot number 3, a distance of 59.73 feet to the point of beginning, containing 0.018 acres of land.

This property is in Zone C according to FIA Flood Insurance Rate Map 180603 0605 B, effective April 3, 1985.

CONTRACT FOR SALE AND
DEVELOPMENT OF REAL ESTATE

THIS AGREEMENT on or as of this 17th day of May, 1989, by and between the City of Fort Wayne, Department of Redevelopment, by the Fort Wayne Redevelopment Commission ("Seller") and East Main Street Associates, an Indiana general partnership, ("Buyer").

W I T N E S S E T H:

WHEREAS, the Seller is the governmental entity charged by law with redeveloping blighted areas within Fort Wayne, Indiana, and as such has designated an area known as Lots 1, 2 and 3 of Taber's Addition to the City of Fort Wayne and Lot 40 and the east 5 feet of vacated alley of subdivided Laurents Subdivision, an addition to the City of Fort Wayne as a blighted area subject to the redevelopment statutes; and

WHEREAS, the Seller owns real estate in said described area the legal description of which is Lots 1, 2 and 3 of Taber's Addition to the City of Fort Wayne and Lot 40 and the east 5 feet of vacated alley of subdivided Laurents Subdivision, an addition to the City of Fort Wayne ("real estate"); and

WHEREAS, the Seller has offered to sell the real estate pursuant to the redevelopment statutes and is now authorized to enter into a contract for the sale of the real estate; and

WHEREAS, the Buyer has offered to purchase the real estate and has entered into an agreement to purchase the real estate with the Seller.

NOW, THEREFORE, for and in consideration of mutual promises contained herein, the parties agree as follows:

1. SALE OF LOT, PURCHASE PRICE, AND CLOSING.

Subject to the terms of this Agreement, Seller agrees to sell and Buyer agrees to buy the real estate for a purchase price of One Hundred Seventy-Five Thousand Dollars (\$175,000.00). Said purchase price shall be paid to Seller at the time of closing. Buyer has previously deposited the sum of Eight Thousand Seven Hundred Fifty Dollars (\$8,750.00) as earnest money which sum will be credited against the purchase price at the time of closing. The closing of this transaction shall be within thirty (30) days after the preliminary plans have been approved as described in Section 2 of this Agreement, but no later than the 1st day of July, 1989. At the closing the Seller will deliver to the Buyer its Redevelopment Quit Claim Deed, a policy of title insurance insuring marketable title to the Seller free and clear of all liens and encumbrances except those contained or shown in the Urban Renewal Plan or agreed to as a part of this Agreement, a survey, and will also deliver its closing affidavit. Prior to closing, Buyer shall submit to Seller satisfactory evidence of its ability to finance the improvements to be made to the real estate. Buyer's obligation to complete the purchase of the subject real estate is conditioned upon the subject real estate being determined suitable for the project development plan as confirmed to Buyer's sole satisfaction by a soil boring test(s) of the subject real estate by a qualified soil boring expert selected by Buyer at Buyer's sole expense.

2. BUYER'S AGREEMENT TO DEVELOP.

The Buyer shall prepare preliminary plans and design specifications for the development of the real estate and shall present such plans and specifications to the Seller for approval, which approval shall not be unreasonably withheld, not later than thirty (30) days from the date of this Agreement. Such preliminary plans must include a plot plan, elevation, interior layout, landscaping and parking area plans. The Seller shall approve or reject such plans and specifications submitted by the Buyer within

fifteen (15) days after their submission. If the Seller rejects the preliminary plans and specifications, then the Seller must specify to the Buyer how the plans and specifications fail to comply with the urban renewal plan and/or the restrictions and covenants made a part of this Agreement. Upon the rejection of the plans and specifications by the Seller, the Buyer shall have thirty (30) days to submit revised preliminary plans and specifications for the development of the real estate. The Buyer shall close on the real estate, submit evidence of financing for the project, and commence construction not later than August 1, 1989. For the purposes of this Agreement, construction shall be deemed to have been commenced at the time Buyer begins site work and demolition. The Buyer's final plans and specifications for construction of the improvements shall also be subject to approval by Seller in accordance with the terms of this Agreement, which approval shall not be unreasonably withheld, within thirty (30) days after timely submission by Buyer. The improvements shall be completed and ready for occupancy within thirteen (13) months (395 days) from the commencement of the new construction, but no later than eighteen (18) months after signing the development agreement, unless Buyer's preliminary plans and specifications are rejected by Seller as set forth above, in which event, Buyer shall be granted an extension of time to complete construction equal to the number of days between the date such first rejection of such plans and specifications occurs and the subsequent approval of the Buyer's revised preliminary plans and specifications. Upon completion of the improvements, the Buyer shall request a certificate of completion from the Seller, at which time the Seller shall investigate to insure that the improvements have been constructed in accordance with the plans and specifications approved by the Seller and comply with the Urban Renewal Plan. The Seller shall issue its certificate of completion or give its reasons for not issuing same within thirty (30) days after receipt of the request from the Buyer. The only reason for the Seller to refuse to issue the certificate of completion shall be the Buyer's failure

to substantially comply with the approved plans and specifications and/or the said Urban Renewal Plan which are part of this Agreement.

3. RESTRICTIONS ON SALE.

Until such time as the certificate of completion is issued by the Seller, the Buyer shall not sell or convey any interest in the real estate without the express written consent of the Seller.

4. RIGHTS OF ACCESS TO THE PROPERTY.

The Seller reserves for itself, the City of Fort Wayne and any public utility as may be appropriate, the unqualified right to enter upon the real estate at all reasonable times for the purposes of reconstructing, maintaining, repairing or servicing the public utilities located on the real estate within existing easements, if any. The Buyer shall not construct any building or other improvements on, over or within any easement for public utilities as shown by the plat. Prior to the conveyance of the real estate by the Seller, to the Buyer, the Seller shall permit representatives of the Buyer to have access to any part of the real estate at all reasonable times for the purpose of obtaining data or making various tests concerning the real estate necessary to carry out the Agreement. No compensation shall be payable nor shall any charge be made in any form by any party for the access provided for in this section.

5. REMEDIES.

(A) Except as otherwise provided in this Agreement, in the event of a default by either party of any of the terms or conditions contained herein, the nondefaulting party shall give written notice as provided herein to the defaulting party describing the default and granting the defaulting party sixty (60) days to cure or remedy such default. If not remediable in sixty (60) days, the defaulting party must take steps as is necessary

within such sixty (60) day period to commence curing the said default.

(B) If the default is the failure of the Buyer to close on the real estate as provided for in Section 1 herein, which failure is through no fault of the Seller, then Seller's sole remedy shall be retention of the earnest money as liquidated damages.

(C) In the event Buyer fails to commence construction on or before August 1, 1989, except for reasons beyond the control of Buyer, Buyer shall reconvey the real estate to Seller in return for the repayment of Buyer's purchase price, less Seller's closing costs. This covenant shall survive the closing. Seller reserves the right to waive this remedy in its sole discretion for good cause shown.

(D) In the event of any other default, if the defaulting party has not cured such default within the sixty (60) day period provided for herein, then the aggrieved party may institute such proceedings as may be available at law or in equity.

6. NOTICES.

Any notice, demand or other communication required under this Agreement shall be sufficiently given if it is sent by registered or certified mail, postage prepaid, return receipt requested, or delivered personally to the address listed below.

If to the Seller: The Fort Wayne Redevelopment Commission
 One Main Street
 City-County Building, Room 840
 Fort Wayne, Indiana 46802

If to the Buyer: East Main Street Associates
 2000 Fort Wayne Bank Building
 Fort Wayne, Indiana 46802

or at such other address as may be designated by either party.

7. CONDITIONS ON DEVELOPMENT.

Development of the property pursuant to this Agreement shall be subject to the conditions herein set forth, which conditions shall survive the executing and closing of this Agreement.

- A. New construction should compliment and enhance historic resources.
- B. Buyer should clean up and improve the alleyways abutting the real estate.
- C. Mass and materials used in the buildings to be constructed should closely relate to the setbacks and massing of the existing structures on the block. The line of building mass at the edge of the blocks should be retained and strengthened.
- D. Parking areas should, to the extent feasible, not be visible from the street frontage, but should be contained in structures or on the interiors of the property.
- E. Landscaping should be used for functional purposes such as screening parking areas from the street and above views, the provision of noise buffers for residents, and enhancing usable open spaces and street spaces adjacent to the site.
- F. Site being located at a secondary entranceway to downtown should be developed to a positive image for downtown.
- G. Construction shall begin no later than August 1, 1989, as provided herein.

The issuance of the certificate of completion shall be deemed to be in fulfillment and compliance of all these conditions.

8. GOVERNING LAW.

This Agreement shall be construed in accordance with the laws of the state of Indiana.

9. BINDING EFFECT.

This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns, where permitted.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on or as of the day first above written.

SELLER

CITY OF FORT WAYNE
DEPARTMENT OF REDEVELOPMENT

BY: R. Steven Hill
R. STEVEN HILL, President
Fort Wayne Redevelopment
Commission

ATTEST: B. A. Eisbart
BENJAMIN A. EISBART
Secretary, Fort Wayne
Redevelopment Commission

BUYER

EAST MAIN STREET ASSOCIATES
an Indiana General Partnership

BY: Sherrill Wm. Colvin
SHERRILL WM. COLVIN, Partner

BY: Stephen E. Lewis
STEPHEN E. LEWIS, Partner

BY: Vincent J. Heiny
VINCENT J. HEINY, Partner

BY: John O. Feighner
JOHN O. FEIGHNER, Partner

BY: Perry D. Shilts
PERRY D. SHILTS, Partner

BY: Mark E. Giaquinta
MARK E. GIAQUINTA, Partner

BY: John F. Hoffman
JOHN F. HOFFMAN, Partner

BY: Anthony Niewyk
ANTHONY NIEWYK, Partner

DIGEST SHEET

TITLE OF ORDINANCE Declaratory Resolution

DEPARTMENT REQUESTING ORDINANCE Economic Development

SYNOPSIS OF ORDINANCE To construct a three story, first class office building

ranging from 24,000 to 28,000 sq. ft. Real property improvements totaling

\$1,700,000.00. (EAST MAIN STREET ASSOCIATES)

Q-89-06-22

EFFECT OF PASSAGE Tax abatement will be approved and new jobs will be created.

EFFECT OF NON-PASSAGE Opposite of above.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) \$1,700,000.00

ASSIGNED TO COMMITTEE (PRESIDENT) Tom Henry

BILL NO. R-89-06-22

REPORT OF THE COMMITTEE ON FINANCE

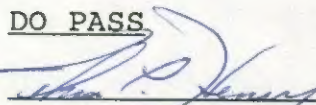
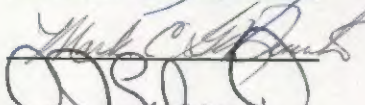
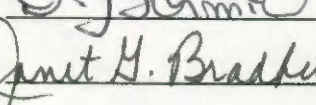

THOMAS C. HENRY, CHAIRMAN
MARK E. GIAQUINTA, VICE CHAIRMAN
BRADBURY, SCHMIDT, STIER

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS

REFERRED AN (~~ORDINANCE~~) (RESOLUTION) DECLARATORY RESOLUTION
designating an "Economic Revitalization Area" under I.C.
6-1.1-12.1 for property commonly known as 400 East Main Street
Fort Wayne, IN (East Main Street Associates)

HAVE HAD SAID (~~ORDINANCE~~) (RESOLUTION) UNDER CONSIDERATION AND
BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID

(~~ORDINANCE~~) (RESOLUTION) _____

<u>DO PASS</u>	<u>DO NOT PASS</u>	<u>ABSTAIN</u>	<u>NO REC</u>
			
			
			
			

DATED: 6-29-89.

Sandra E. Kennedy
City Clerk